

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



NICHOLAS LENNEAR, #56510-018,

Petitioner,

v.

Civil Action No. 2:17cv135

ERIC D. WILSON,

Respondent.

FINAL ORDER

Before the Court is a petition for a writ of habeas corpus, ECF No. 1, filed pursuant to 28 U.S.C. § 2241, and the Respondent's Rule 5 Answer. ECF No. 5. Petitioner challenges his institutional conviction for "Conduct which disrupts to the orderly running of the institution most like engaging in a group demonstration," ECF No. 1 at 12, as a result of which the Petitioner, among other sanctions, lost twenty-seven (27) days of Good Conduct Time.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on February 6, 2018, ECF No. 9, the Magistrate Judge recommended that the relief sought by the

Respondent's Rule 5 Answer (denial and dismissal) be granted, and the Petition be denied and dismissed with prejudice. The parties were advised of their right to file written objections to the Report and Recommendation. On February 27, 2018, the Court received the Petitioner's objections which, as Respondent notes in its Response to Plaintiff's Objection to Report and Recommendation, appear to have been timely filed insofar as the postmark on Petitioner's submission reflects a date of February 22, 2018. See United States v. McNeill, 523 F. App'x 979, 981 (4th Cir. 2013) (discussing "prison mailbox rule"). ECF Nos. 10, 11 at fn. 1. On March 7, 2018, the Court received the Respondent's response to Petitioner's objections. ECF No. 11.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and the Respondent's response to those objections, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the Report and Recommendation, ECF No. 9, in its entirety as the Court's own opinion. Accordingly, the Respondent's Rule 5 Answer seeking denial and dismissal of the Petition, ECF No. 5, is **GRANTED**, and the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is ORDERED that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from

the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. See *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is DIRECTED to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so ORDERED.



Mark S. Davis
United States District Judge

Mark S. Davis
United States District Judge

Norfolk, Virginia

Date: *March 13, 2018*